



## CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

**Department:** Human Resource Management  
**Subject:** Alcohol and Substance Abuse Policy

**Policy Number:** 6-19  
**Supersedes:** 11/23/98  
**Date Issued:** 07/01/01

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### **I. PART I—GENERAL POLICY**

#### **A. Introduction**

The abuse of drugs or alcohol in the County workplace jeopardizes the productivity of employees, poses a safety and health threat to employees and the public, and erodes public trust and confidence in County government. The federal Drug Free Workplace Act requires the County to provide all employees with an alcohol and drug free work environment. All employees are responsible for ensuring that the County's work environment is alcohol and drug free.

No employee shall do any of the following while on County premises or while conducting County business: (1) use, sell, dispense, possess, or manufacture alcohol or illegal drugs, (2) be under the influence of alcohol, illegal drugs, or (3) have alcohol or illegal drugs present in their bodies, as described in Part III (page 8). In addition, no employee shall commit an alcohol or drug related crime, whether or not the crime was committed while on County premises or while conducting County business. All County employees are hereby notified that the County is committed to providing its employees with a drug and alcohol free work environment. As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. The acknowledgment of this policy by employees represents their "last chance" to engage in behavior that violates this policy. Any violation will result in disciplinary action. Employees who refuse to be tested or who do not cooperate with a test, will be disciplined as if they had taken the test and failed it and are subject to additional disciplinary action for insubordination. All new County employees will be required to sign a statement recognizing that their last chance to violate this policy has ended. For purposes of this policy the term "illegal drugs" shall include all controlled substances set forth in the Virginia Drug Control Act, Section 54.1-3400, *Code of Virginia*, 1950, as amended, except when such controlled substance is used or possessed pursuant to a valid medical prescription.

Separate procedures for employees covered by the Omnibus Transportation Employee Testing Act of 1991 are outlined in the Chesterfield County / Chesterfield County Public Schools Commercial Motor Vehicle Operators' Drug and Alcohol Testing Program.

#### **B. Disciplinary Action for Violation of Policy**

1. Any probationary employee or any employee who has worked for the County for less than twelve months who violates any provision of this policy shall be terminated.
2. Any employee who commits or is convicted of a drug or alcohol related felony shall be terminated, irrespective of whether the offense took place while the employee was on County premises or conducting County business.
3. Any employee who commits or is convicted of a drug or alcohol related misdemeanor shall be terminated if the offense took place while the employee was on County premises or conducting County business or if the offense is reasonably related to the employee's fitness to perform the employee's job responsibilities.
4. Any employee who violates any other provision of this policy shall be disciplined in the following fashion:

- a. Discipline may include termination or any of the other options contained in Section 4-3 of the Personnel Policies. Discipline shall not be limited to verbal counseling, verbal reprimand or written reprimand. At a minimum, the employee shall be suspended for one workweek without pay for a positive drug test and shall be referred to the Employee Assistance Program (EAP). This will be a mandatory referral. The employee will also be required to comply with recommendations of the EAP. Failure to comply with any EAP requirement will result in termination. The employee's supervisor shall be authorized to discuss the employee's compliance with EAP recommendations with EAP personnel. In all other circumstances, the employee's EAP records are confidential.
  - b. For any second violation of whatever magnitude by an employee of the Police Department, Fire Department, Sheriff's Department, Juvenile Detention Home, Youth Group Home or Emergency Communication Center, the employee shall be terminated.
  - c. For any second violation of whatever magnitude by any other employee there will be a presumption that the employee will be terminated. The employee may overcome the presumption by establishing that the pattern of violations does not reasonably relate to the employee's fitness to perform his or her job responsibilities. If the employee is not terminated, the employee shall be disciplined in accordance with paragraph D. 1.
  - d. The Director of Human Resource Management shall review all disciplinary decisions made by managers and supervisors pursuant to this policy to ensure that they are consistent with the County's goal of an alcohol and drug free workplace.
  - e. In determining the appropriate disciplinary action to be taken against an employee under this policy, supervisors shall apply the standards set forth in the Personnel Policies of the County for situationally appropriate discipline (Section 4-2) and shall ensure that the employee Code of Ethics (Section 1-4) is maintained. In addition, supervisors shall consider the nature of the employee's job responsibilities, the legality or illegality of the act constituting the violation and the level of alcohol or drugs involved in the violation in determining the appropriate disciplinary action. The employee's performance and disciplinary history should be evaluated prior to making a decision.
5. Any employee who violates this policy while operating a County vehicle shall be prohibited from operating any County vehicle until the employee is released from treatment by the EAP, in addition to any other disciplinary action taken against the employee.

**C. Employee Assistance Program**

1. The EAP provides all County employees with the opportunity to seek counseling, rehabilitation and other assistance for alcohol and drug abuse problems. Employees who have or believe that they may have alcohol or drug abuse problems may voluntarily seek assistance through the EAP. All EAP information is treated confidentially when the employee voluntarily seeks EAP assistance, except as provided in section B below.
2. The EAP shall notify the Police and Fire Departments, Emergency Communications, and the Sheriff's Office respectively when sworn employees of the Police Department and Sheriff's Office and uniformed employees of the Fire Department and Emergency Communications voluntarily seek services of the EAP and are found: (1) to be using, or

(2) to have abused, illegal drugs, alcohol or prescription drugs in a manner that could affect current or future job performance. The notification will only take place after the employee has signed the release form the counselor has completed assessment of the problem and developed a treatment plan. Once notified, the department will take appropriate action pursuant to County policies.

3. Employees who are not in violation of this policy are not subject to disciplinary action as a result of voluntarily seeking EAP assistance for alcohol or drug abuse problems, except as noted in section B above. However, employees who violate this policy will be disciplined in accordance with the policy irrespective of whether or not they have received or are receiving voluntary assistance for alcohol or drug abuse problems through the EAP. Additionally, voluntary involvement in the EAP shall not be considered a mitigating factor in determining the appropriate disciplinary action to be taken for a violation of this policy.

- D. **Policy Exceptions** – Employees may be placed in social settings outside of normal working hours, when they are conducting County business or representing the County in a situation where alcoholic beverages are served. Discrete use of a moderate amount of alcohol under the circumstances described in this section is not a violation of this policy; provided, that employees minimize their consumption of alcoholic beverages to the greatest extent possible and do not, at any time, operate a County motor vehicle after having consumed alcohol.

## II. **PART II—TESTING PROCEDURES FOR SAFETY SENSITIVE POSITIONS NOT REQUIRING THE USE OF A COMMERCIAL DRIVERS LICENSE**

Submission to Testing—All employees and applicants shall submit to testing for the presence of drugs and alcohol in the following situations and under the following circumstances:

- A. **Applicant Testing** – All job applicants will be informed of pre-employment testing for illegal drugs as early in the recruitment process as possible and no later than during the interview phase. Any applicant who fails a drug test or refuses to submit to such a test will be denied employment and will be ineligible for hire by any County department in the future.

### B. **Employee Testing**

#### 1. ***Testing for Drug or Alcohol Based on Reasonable Suspicion***

Employees shall submit to drug and alcohol testing when, in the opinion of the employee's supervisor, there is a reasonable suspicion that the employee is using, is under the influence of, or has present in his or her body, illegal drugs or alcohol. Reasonable suspicion is a suspicion based on objective facts that an employee is using, or under the influence of, alcohol or illegal drugs.

By way of example, and without limitation, any of the following conditions or circumstances, alone or in combination, may create a reasonable suspicion:

- a. Unexplained inability to perform normal job functions.
- b. Slurred speech.
- c. The smell of alcohol or drugs on the breath or body.
- d. Any unusual lack of physical coordination or loss of equilibrium.
- e. Unexplained hyperactivity, depression or withdrawal.
- f. Unexplained inability to think or reason at normal levels.
- g. Bizarre behavior or thinking.
- h. Information that an employee is using alcohol or illegal drugs in violation of County policy, when obtained from a reliable person with personal knowledge of facts that support the allegation.

- i. Involvement in an avoidable accident that caused, or had the potential to cause, personal injury or property damage.
- j. Unexplained change in affect or mood.
- k. Unexplained shortness of temper.
- l. Violent or unexplained response to daily problems.

If reasonable suspicion testing is being considered the Test Coordinator shall be notified as soon as possible by paging 777-3623.

2. ***Random Testing*** – Employees in the following positions shall submit to unannounced random alcohol and drug testing:

- a. Sworn employees of the Police and Sheriff's Department
- b. Uniformed employees of Fire and Emergency Communication Center
- c. Employees of Juvenile Detention Home and Youth Group Home
- d. Non-uniformed/non-sworn employees of the above departments who have access to confidential law enforcement records or public safety information.
- e. Department Directors, Deputy County Administrators and the County Administrator
- f. Employees who handle or dispense prescription medications or other controlled substances
- g. Employees who operate heavy equipment, machinery or vehicles, including employees whose positions are officially designated as requiring use of a County automobile on a regular basis in order to perform job duties
- h. Employees who regularly work with or test chemicals or other substances under circumstances that have a significant potential to cause harm to employees, the public, County property or private property

The employee's supervisor shall arrange for the employee to proceed to the test site ***immediately*** upon notification that the employee has been selected for random testing.

Each calendar year twenty (20) percent of the pool of employees subject to random testing will be randomly selected for testing by a computer-generated program using the simple random sampling method.

3. ***Testing After Motor Vehicle Accidents*** – Employees shall be tested for drugs and alcohol immediately after a motor vehicle accident which occurred while they were operating a County vehicle if:

- a. A person was killed in the accident and the employee was engaged in a safety sensitive job activity.
- b. The employee received a moving vehicle traffic citation for the accident and a vehicle was towed from the scene because of property damage sustained in the accident.
- c. The employee received a moving vehicle traffic citation for the accident and a person was transported from the accident scene to receive medical treatment.
- d. In the opinion of the employee's supervisor or the risk manager, there is a reasonable suspicion that the employee was using, was under the influence of or has present in his or her body, illegal drugs or alcohol based on objective facts as listed in part II, section II, A (Reasonable Suspicion) of this policy.

4. ***Return-to-Duty Testing***

Before returning to a safety sensitive job function after receiving a positive alcohol or controlled substance test, employees must receive a written release from their substance abuse professional documenting that they are able to return to full duty and must also complete a negative drug and alcohol test.

If the return to duty test is deemed positive and is not ruled as a residual positive by the Medical Review Officer, Chesterfield County must treat the results as a failure to comply with the SAP's instructions and a second positive. The employee will be disciplined in accordance with section II. D. 3. of this policy to include a referral to a SAP for additional evaluation. The employee will not be returned to regular "safety sensitive" duties until a negative return to duty test is reported by the Medical Review Officer.

5. ***Periodic Testing*** – All employees who have previously tested positive for drugs or alcohol and have completed a negative Return-to-Duty test must submit to unannounced periodic testing for drugs and alcohol. The dates and times of such periodic testing will be determined by the County.
- C. **Consent for Testing** – As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. Employees who refuse to be tested, or who do not cooperate with a test shall be disciplined as if they failed the test and are subject to additional disciplinary action for insubordination.
- D. **Legitimate use of Drugs Affecting Test Results** – Any employee who conclusively establishes by competent medical evidence that a positive drug test result was caused by the presence of a prescription drug which the employee was taking in accordance with a valid prescription, or as the result of the use of a non-prescription drug which the employee was taking properly for a bona fide medical purpose, shall not be deemed to have violated this policy because of failing a test for that drug.
- E. **Confidentiality of Test Results** – The result of any drug or alcohol test that is performed pursuant to this policy shall be confidential and shall be made known only to those County employees who are directly involved in any disciplinary decision made as a result of such test results or in any grievance arising out of such disciplinary decision. The result of any drug or alcohol test that is performed pursuant to this policy shall not be used in any criminal proceeding against the tested employee; however, in appropriate circumstances, any other information obtained by the County regarding an employee's violation of this policy may be used in a criminal proceeding against the employee.

### III. PART III—PROCEDURES FOR DRUG AND ALCOHOL TESTING

#### A. Standards for Testing

All drug test will take place at a facility certified for drug testing by the National Institute for Drug Abuse (NIDA) in accordance with drug testing standards promulgated by NIDA that ensure accurate testing and minimum intrusion into the privacy of employees. A copy of the most recent NIDA standards shall be kept by the Director of Human Resource Management or his designee at all times and shall be available for inspection and copying by all County employees. All alcohol tests shall be administered in accordance with normal standards for alcohol breath analysis.

When the laboratory reports that the specimen was dilute, the next time the employee is selected for any drug test, the employer may require the specimen to be collected under direct observation.

When Chesterfield County receives a test result from the MRO indicating that the employee's specimen was unsuitable for testing or rejected for testing, the employee will be directed to immediately provide a new specimen under direct observation. The collector will note on the chain of custody the same reason for collection as the original sample.

**B. What Constitutes a Positive Test**

Employees who are tested for controlled substances will receive an Immunoassay Test, or “drug screen” of their urine. The County reserves the right to test for any of the following substances: amphetamines, barbiturates, cocaine, cannabinoids, methaqualone, opiates, phencyclidine (PCP), or benzodiazepines. If the “drug screen” detects the presence of any of these substances in the employee’s urine, a gas chromatography/mass spectrometry “confirmation test” will be conducted on the same urine sample. If the confirming test confirms the presence of any of the above listed substances in the employee’s urine, the employee shall be deemed to have tested positive for drugs and to have drugs present in his or her body, subject to the split specimen test described in this policy.

Employees who are tested for alcohol will receive an alcohol breath analysis test. If the breath analysis test determines that the employee’s blood alcohol content is at a level of .04 or higher, the employee shall be deemed to have tested positive for alcohol and to have alcohol present in his or her body. Employees who have tested positive for alcohol may request to undergo a blood alcohol content (“BAC”) test at their own expense. The blood will be drawn immediately after the breath analysis has been completed.

An employee whose alcohol test results are between 0.02 and 0.04 cannot perform safety-sensitive functions as defined by the Department Director/Office Administrator within 24 hours after the test. Before returning to work, the employee will be required to take a breath alcohol test which has a result of .000.

**C. Split Specimen**

All drug testing shall be conducted under split-sample collection procedures.

The County shall contract with a Medical Review Officer (MRO), who is responsible for analyzing results of drug tests and contacting the employee if results are positive.

Employees may within 72 hours after they are notified of a positive test, request in writing to the MRO, a test of the split specimen and designate a certified laboratory to test the split specimen. If an employee does not request a split specimen test or designate a certified laboratory to test the split specimen within the 72-hour period, the employee shall have waived the opportunity for a split specimen test and the employee shall be deemed to have tested positive for drugs. The employee may not request a reanalysis of the primary sample.

If the analysis of the split specimen does not reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the employee shall be deemed not to have tested positive for drugs, irrespective of the outcome of the original test.

The employee *shall* pay the cost of testing the split specimen. The County will reimburse the employee for the cost if the analysis of the split specimen does not reconfirm the presence of drugs, irrespective of the outcome of the original test.

**D. Refusal to Test**

Refusal to submit to an alcohol or controlled substance test means an employee, after he or she has received notice of the requirement for alcohol or controlled substance testing: (1) fails to provide adequate breath for testing without a valid medical explanation, (2) fails to provide adequate urine for controlled substance testing without a valid medical explanation, (3) engages in conduct that clearly obstructs the testing process, (4) refuses to submit to federal required testing, (5) fails to drink fluids as directed by the collector following a failure to provide a sufficient amount of urine, (6) fails to undergo an additional medical examination as part of a “shy bladder” procedure, or (7) if specimen is found to have been adulterated or substituted.